



January 23, 2015

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## SENATE BILL No. 55

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DIGEST OF SB 55 (Updated January 21, 2015 12:32 pm - DI 106)

**Citations Affected:** IC 34-18.

**Synopsis:** Medical malpractice actions. Permits a patient to bring an action against a health care provider without submitting the complaint to the medical review board if the amount of the claim is not more than \$ 50,000. (Under current law, a patient may bring a direct action only if the amount is not more than \$15,000.)

**Effective:** July 1, 2015.

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**Steele, Randolph, Broden**

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January 6, 2015, read first time and referred to Committee on Judiciary.  
January 22, 2015, amended, reported favorably — Do Pass.

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SB 55—LS 6266/DI 106





January 23, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 55

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 34-18-8-6 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Notwithstanding  
3       section 4 of this chapter, a patient may commence an action against a  
4       health care provider for malpractice without submitting a proposed  
5       complaint to a medical review panel if the patient's pleadings include  
6       a declaration that the patient seeks damages from the health care  
7       provider in an amount not greater than ~~fifteen thousand dollars~~  
8       ~~(\$15,000)~~ **fifty thousand dollars (\$50,000)**. In an action commenced  
9       under this subsection (or IC 27-12-8-6(a) before its repeal), the patient  
10      is barred from recovering any amount greater than ~~fifteen thousand~~  
11      ~~dollars (\$15,000)~~ **fifty thousand dollars (\$50,000)**, except as provided  
12      in subsection (b).  
13      (b) A patient who:  
14          (1) commences an action under subsection (a) (or IC 27-12-8-6(a)  
15          before its repeal) in the reasonable belief that damages in an  
16          amount not greater than ~~fifteen thousand dollars (\$15,000)~~ **fifty**

SB 55—LS 6266/DI 106



**thousand dollars (\$50,000)** are adequate compensation for the bodily injury allegedly caused by the health care provider's malpractice; and

(2) later learns, during the pendency of the action, that the bodily injury is more serious than previously believed and that ~~fifteen thousand dollars (\$15,000)~~ **fifty thousand dollars (\$50,000)** is insufficient compensation for the bodily injury;

may move that the action be dismissed without prejudice and, upon dismissal of the action, may file a proposed complaint subject to section 4 of this chapter based upon the same allegations of malpractice as were asserted in the action dismissed under this subsection. In a second action commenced in court following the medical review panel's proceeding on the proposed complaint, the patient may recover an amount greater than ~~fifteen thousand dollars (\$15,000)~~ **fifty thousand dollars (\$50,000)**. However, a patient may move for dismissal without prejudice and, if dismissal without prejudice is granted, may commence a second action under this subsection only if the patient's motion for dismissal is filed within two (2) years after commencement of the original action under subsection (a) (or IC 27-12-8-6(a) before its repeal).

(c) If a patient:

(1) commences an action under subsection (a) (or IC 27-12-8-6(a) before its repeal);

(2) moves under subsection (b) (or IC 27-12-8-6(b) before its repeal) for dismissal of that action;

(3) files a proposed complaint subject to section 4 of this chapter based upon the same allegations of malpractice as were asserted in the action dismissed under subsection (b) (or IC 27-12-8-6(b) before its repeal); and

(4) commences a second action in court following the medical review panel proceeding on the proposed complaint;

the timeliness of the second action is governed by IC 34-18-7-1(c).

(d) A medical liability insurer of a health care provider against whom an action has been filed under subsection (a) (or IC 27-12-8-6(a) before its repeal) shall provide written notice to the state health commissioner as required under IC 34-18-9-2.



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 55, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 8, delete "one hundred eighty-seven thousand dollars (\$187,000)." and insert "**fifty thousand dollars (\$50,000).**".

Page 1, line 11, delete "one hundred eighty-seven" and insert "**fifty thousand dollars (\$50,000).**".

Page 1, line 12, delete "thousand dollars (\$187,000).".

Page 1, line 16, delete "one" and insert "**fifty thousand dollars (\$50,000).**".

Page 2, line 1, delete "hundred eighty-seven thousand dollars (\$187,000)".

Page 2, line 6, delete "one hundred eighty-seven thousand" and insert "**fifty thousand dollars (\$50,000).**".

Page 2, line 7, delete "dollars (\$187,000)".

Page 2, line 15, delete "one hundred" and insert "**fifty thousand dollars (\$50,000).**".

Page 2, line 16, delete "eighty-seven thousand dollars (\$187,000)".

and when so amended that said bill do pass.

(Reference is to SB 55 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 1.

